

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

G&H DIVERSIFIED MANUFACTURING, LP,

Plaintiff,

V.

**DYNAENERGETICS EUROPE GMBH, and
DYNAENERGETICS US, INC.,**

Defendants.

[illegible]

Civil Action No. 3:20-cv-00376

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court’s Docket Control Order Through Markman (Dkt. No. 32) and P.R. 4-3, Plaintiff and Counterclaim Defendant G&H Diversified Manufacturing, LP, Counterclaim Defendant Yellow Jacket Oil Tools, LLC (collectively “Counterclaim Defendants”), and Defendants and Counterclaim Plaintiffs DynaEnergetics Europe GmbH and DynaEnergetics US, Inc. (collectively “DynaEnergetics”) disclose the following constructions for identified terms within U.S. Patent No. 10,844,697 (“the ’697 Patent”).

Claim Terms and Constructions:

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
tandem seal adapter	1	<p>“adapter configured to form a seal between two gun carriers that are directly attached to each other”</p> <p><u>Extrinsic Evidence:</u></p> <p>G&H000557-59 (available at http://oilgassglossary.com/sub.html)</p> <p>G&H000560-61 (available at https://drillingmatters.iadc.org/glossary/sub/)</p> <p>G&H000415-556 (Declaration of John Rodgers, Ph.D., Ex. 2002 to PGR 2020-00080)</p> <p>G&H000001-144 (Declaration of Julie Giardina in Support of DynaEnergetics Motion for Preliminary Injunction, <i>DynaEnergetics Europe GmbH et al v. OSO Perforating, LLC</i>, Case No. 3:21-cv-00188 at Dkt. 25-1 (N.D. Tex., May 28, 2021))</p> <p>G&H000144-310 (Declaration of Julie Giardina in Support of DynaEnergetics Motion</p>	<p>“Plain and ordinary meaning”</p> <p><u>Extrinsic Evidence:</u></p> <p>Testimony of Dr. John Rodgers</p> <p><u>Intrinsic Evidence:</u></p> <p>’697 Patent, DYNA_697_0001091, at Claims 1, 4, 5, 8, 9, 13, 14, 2:1-16, 3:49-4:67, 5:42-55, 6:28-7:12, 7:35-8:62, 9:4-10:17, and Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding descriptions</p> <p>’697 Patent File History, DYNA_697_0000001, at DYNA_697_0000068-73, DYNA_697_0000285-90, DYNA_697_0000308-313, DYNA_697_0000529-535, DYNA_697_0000675-678, DYNA_697_0000797-798, DYNA_697_0000801-803, DYNA_697_0000805, DYNA_697_0000809,</p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		<p>for Preliminary Injunction, <i>DynaEnergetics Europe GmbH et al v. SWM International, LLC</i>, Case No. 3:21-cv-00192 at Dkt. 34-1 (N.D. Tex., May 28, 2021))</p> <p>G&H000585-630 (Available at https://www.dmcglobal.com/-/media/Project/DMC/DMCGlobal/Investor-Presentations/August-2019-IR-Deck-web.pdf)</p> <p>G&H000631-633 (Available at https://dynaenergetics.com/news-and-events/New-News-Folder/DynaEnergetics-Surpasses-One-Million-DynaStage-System-Sales)</p> <p>G&H000634-635 (Available at https://dynastage.com/-/media/Project/DMC/DynaStage/Dynastage_SAFETY_323.pdf)</p> <p>Testimony of Dr. Gary Wooley</p> <p><u>Intrinsic Evidence:</u></p> <p>'697 Patent: Claims 1, 4, 5, 8, 9, 13, 14; Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding description; 2:1-16; 3:49-4:67; 5:42-55; 6:28-7:12 7:35-8:62; 9:1-10:17</p>	<p>DYNA_697_0000811-12, DYNA_697_0000902-903, DYNA_697_0000906-908, DYNA_697_0000910, DYNA_697_0000914, DYNA_697_0000917, DYNA_697_0000945-946, DYNA_697_0001000-1003, DYNA_697_0001010-1011, DYNA_697_0001013-1019,</p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		<p>Prosecution History of '697 Patent: November 12, 2019 Non-Final Rejection; February 12, 2020 Claim Amendments and Applicant Argument and Remarks in Response to Nov. 12, 2019 Non-Final Rejection; March 6, 2020 Notice of Allowance; March 26, 2020 Post Allowance Communication; March 26, 2020 Information Disclosure Statement; March 31, 2020 Notice of Allowance; April 22, 2020 Request for Continued Examination; April 22, 2020 Information Disclosure Statement; June 19, 2020 Office Action Appendices; June 19, 2020 Examiner Interview Summary Record; June 19, 2020 Notice of Allowance; June 26, 2020 Request for Continued Examination; June 26, 2020 Information Disclosure Statement; July 20, 2020 Information Disclosure Statement; August 5, 2020 Examiner Interview Summary Record; August 5, 2020 Notice of Allowance</p>	
connected to	1	<p>“joined or coupled together”</p> <p><u>Extrinsic Evidence:</u></p> <p>DYNA 697 0003515, Connected, <i>Cambridge</i></p>	<p>“joined or coupled in a manner that resists separation and not merely by physical contact”</p> <p><u>Extrinsic Evidence:</u></p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		<p><i>Advanced Learner's Dictionary & Thesaurus</i>, available at https://dictionary.cambridge.org/us/dictionary/english/connected (last accessed June 10, 2021)</p> <p><u>Intrinsic Evidence:</u></p> <p>'697 Patent: Claims 1, 9, 14; Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding description; 2:1-16; 3:49-4:67; 5:42-55; 6:28-7:12 7:35-8:62; 9:1-10:17</p> <p><u>Prosecution History of '697 Patent:</u> November 12, 2019 Non-Final Rejection; February 12, 2020 Claim Amendments and Applicant Argument and Remarks in Response to Nov. 12, 2019 Non-Final Rejection; March 6, 2020 Notice of Allowance; March 26, 2020 Post Allowance Communication; March 26, 2020 Information Disclosure Statement; March 31, 2020 Notice of Allowance; April 22, 2020 Request for Continued Examination; April 22, 2020 Information Disclosure Statement; June 19, 2020 Office Action Appendices; June 19, 2020 Examiner Interview Summary Record; June 19, 2020 Notice of Allowance; June 26, 2020 Request for Continued Examination; June 26, 2020 Information Disclosure Statement; July 20, 2020 Information</p>	<p>Testimony of Dr. John Rodgers; DYNA_697_0003515, Connected, <i>Cambridge Advanced Learner's Dictionary & Thesaurus</i>, available at https://dictionary.cambridge.org/us/dictionary/english/connected (last accessed June 10, 2021)</p> <p><u>Intrinsic Evidence:</u></p> <p>'697 Patent, DYNA_697_0001091, at Claims 1, 9, 14, 2:1-16, 3:49-4:67, 5:42-55, 6:28-7:12, 7:35-8:62, 9:4-10:17, and Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding descriptions</p> <p>'697 Patent File History, DYNA_697_0000001, at DYNA_697_0000068, DYNA_697_0000071, DYNA_697_0000073, DYNA_697_0000285-290, DYNA_697_0000308-313, DYNA_697_0000531-532, DYNA_697_0000792, DYNA_697_0000799, DYNA_697_0000802-803, DYNA_697_0000808, DYNA_697_0001006,</p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		Disclosure Statement; August 5, 2020 Examiner Interview Summary Record; August 5, 2020 Notice of Allowance	DYNA_697_0001012, DYNA_697_0001015-1016,
first end/second end	1	<p>“first outermost edge lengthwise”</p> <p>“second outermost edge lengthwise”</p> <p><u>Extrinsic Evidence:</u></p> <p>G&H000391-405 (available at https://www.merriam-webster.com/dictionary/end)</p> <p>G&H000367-381 (available at https://dictionary.cambridge.org/us/dictionary/english/end)</p> <p>G&H000382-390 (available at https://www.dictionary.com/browse/end)</p> <p>G&H000406-414 (available at https://www.lexico.com/en/definition/end)</p> <p><u>Intrinsic Evidence:</u></p> <p><u>'697 Patent</u>: Claims 1, 4, 5, 9, 13, 14, 15; Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding</p>	<p>Plain and ordinary meaning</p> <p><u>Extrinsic Evidence:</u></p> <p>Testimony of Dr. John Rodgers</p> <p><u>Intrinsic Evidence:</u></p> <p>'697 Patent, DYNA_697_0001091, at Claims 1, 4, 5, 9, 13, 14, 15, 2:1-16, 3:49-4:67, 5:42-55, 6:28-7:12, 7:35-8:62, 9:4-10:17, and Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding descriptions</p> <p>'697 Patent File History, DYNA_697_0000001, at DYNA_697_0000068-69, DYNA_697_0000071-72, DYNA_697_0000179-182, DYNA_697_0000205-206, DYNA_697_0000285-286, DYNA_697_0000288-290, DYNA_697_0000308-313, DYNA_697_0000529-532,</p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		<p>description; 2:1-16; 3:49-4:67; 5:42-55; 6:28-7:12 7:35-8:62; 9:1-10:17</p> <p><u>Prosecution History of '697 Patent:</u> November 12, 2019 Non-Final Rejection; February 12, 2020 Claim Amendments and Applicant Argument and Remarks in Response to Nov. 12, 2019 Non-Final Rejection; March 6, 2020 Notice of Allowance; March 26, 2020 Post Allowance Communication; March 26, 2020 Information Disclosure Statement; March 31, 2020 Notice of Allowance; April 22, 2020 Request for Continued Examination; April 22, 2020 Information Disclosure Statement; June 19, 2020 Office Action Appendices; June 19, 2020 Examiner Interview Summary Record; June 19, 2020 Notice of Allowance; June 26, 2020 Request for Continued Examination; June 26, 2020 Information Disclosure Statement; July 20, 2020 Information Disclosure Statement; August 5, 2020 Examiner Interview Summary Record; August 5, 2020 Notice of Allowance</p>	<p>DYNA_697_0000535-537, DYNA_697_0000676-678, DYNA_697_0001000-1003, DYNA_697_0001015-1016</p>
pin connector assembly	1	“plurality of parts that are fitted together to form a component with pins for connecting two guns or tools”	<p>Plain and ordinary meaning</p> <p><u>Extrinsic Evidence:</u></p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		<p><u>Extrinsic Evidence:</u></p> <p>Declaration of John Rodgers, Ph.D., Ex. 2002 to PGR 2020-00080.</p> <p>G&H000364-366 (available at https://www.lexico.com/en/definition/assembly)</p> <p>G&H000355-363 (available at https://www.merriam-webster.com/dictionary/assembly)</p> <p>G&H000349-354 (available at https://www.dictionary.com/browse/assembly)</p> <p>G&H000339-348 (available at https://dictionary.cambridge.org/us/dictionary/english/assembly)</p> <p>G&H000332-338 (available at https://www.macmillandictionary.com/us/dictionary/american/assembly)</p> <p>G&H000311-331 (<i>Safe Bed Techs. Co. v. KCI USA, Inc.</i>, No. 02 C 0097, 2004 WL 2044277,</p>	<p>Testimony of Dr. John Rodgers</p> <p><u>Intrinsic Evidence:</u></p> <p>'697 Patent, DYNA_697_0001091, at Claims 1, 3, 5, 6, 7, 14, 16, 19, 21, 2:1-16, 3:49-4:67, 5:42-55, 6:28-7:12, 7:35-8:62, 9:4-10:17, and Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding descriptions</p> <p>'697 Patent File History, DYNA_697_0000001, at DYNA_697_0000053, DYNA_697_0000068-73, DYNA_697_0000285-290, DYNA_697_0000308-312, DYNA_697_0000529-533, DYNA_697_0000536-537, DYNA_697_0000675, DYNA_697_0000676-678, DYNA_697_0000802-803, DYNA_697_0000907-908, DYNA_697_0001000-1004, DYNA_697_0001016</p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		<p>(N.D. Ill. Sept. 8, 2004) (<i>Quoting Webster's Third New International Dictionary</i> 131 (1986)))</p> <p><u>Intrinsic Evidence:</u></p> <p><u>'697 Patent</u>: Claims 1, 3, 5, 6, 7, 14, 16, 19, 21; Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding description; 2:1-16; 3:49-4:67; 5:42-55; 6:28-7:12 7:35-8:62; 9:1-10:17</p> <p><u>Prosecution History of '697 Patent</u>: November 12, 2019 Non-Final Rejection; February 12, 2020 Claim Amendments and Applicant Argument and Remarks in Response to Nov. 12, 2019 Non-Final Rejection; March 6, 2020 Notice of Allowance; March 26, 2020 Post Allowance Communication; March 26, 2020 Information Disclosure Statement; March 31, 2020 Notice of Allowance; April 22, 2020 Request for Continued Examination; April 22, 2020 Information Disclosure Statement; June 19, 2020 Office Action Appendices; June 19, 2020 Examiner Interview Summary Record; June 19, 2020 Notice of Allowance; June 26, 2020 Request for Continued Examination; June 26, 2020 Information Disclosure Statement; July 20, 2020 Information Disclosure Statement; August 5, 2020</p>	

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		Examiner Interview Summary Record; August 5, 2020 Notice of Allowance	
first pin connector end second pin connector end	1	<p>“first end of the pin connector assembly”</p> <p>“second end of the pin connector assembly”</p> <p><u>Intrinsic Evidence:</u></p> <p>'697 Patent: Claims 1, 2, 9; Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding description; 2:1-16; 3:49-4:67; 5:42-55; 6:28-7:12 7:35-8:62; 9:1-10:17</p> <p><u>Prosecution History of '697 Patent:</u> November 12, 2019 Non-Final Rejection; February 12, 2020 Claim Amendments and Applicant Argument and Remarks in Response to Nov. 12, 2019 Non-Final Rejection; March 6, 2020 Notice of Allowance; March 26, 2020 Post Allowance Communication; March 26, 2020 Information Disclosure Statement; March 31, 2020 Notice of Allowance; April 22, 2020 Request for Continued Examination; April 22, 2020 Information Disclosure Statement; June 19, 2020 Office Action Appendices; June 19, 2020 Examiner Interview Summary Record;</p>	<p>Plain and ordinary meaning</p> <p><u>Extrinsic Evidence:</u></p> <p>Testimony of Dr. John Rodgers</p> <p><u>Intrinsic Evidence:</u></p> <p>'697 Patent, DYNA_697_0001091, at Claims 1, 2, 9, 2:1-16, 3:49-4:67, 5:42-55, 6:28-7:12, 7:35-8:62, 9:4-10:17, and Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding descriptions</p> <p>'697 Patent File History, DYNA_697_0000001, at DYNA_697_0000069, DYNA_697_0000073, DYNA_697_0000286, DYNA_697_0000290, DYNA_697_0000308, DYNA_697_0000313, DYNA_697_0000529, DYNA_697_0000535, DYNA_697_0000536-537</p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		June 19, 2020 Notice of Allowance; June 26, 2020 Request for Continued Examination; June 26, 2020 Information Disclosure Statement; July 20, 2020 Information Disclosure Statement; August 5, 2020 Examiner Interview Summary Record; August 5, 2020 Notice of Allowance	
it is not possible to interrupt the electrical signal from the first pin connector end to the second pin connector end	2	<p>Not Enabled and/or Indefinite</p> <p><u>Extrinsic Evidence:</u></p> <p>Testimony of Dr. Gary Wooley</p> <p><u>Intrinsic Evidence:</u></p> <p><u>'697 Patent</u>: Claims 1, 2; Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding description; 2:1-16; 3:49-4:67; 5:42-55; 6:28-7:12 7:35-8:62; 9:1-10:17</p> <p><u>Prosecution History of '697 Patent</u>: November 12, 2019 Non-Final Rejection; February 12, 2020 Claim Amendments and Applicant Argument and Remarks in Response to Nov. 12, 2019 Non-Final Rejection; March 6, 2020 Notice of Allowance; March 26, 2020 Post</p>	<p>Plain and ordinary meaning</p> <p><u>Extrinsic Evidence:</u></p> <p>Testimony of Dr. John Rodgers</p> <p><u>Intrinsic Evidence:</u></p> <p><u>'697 Patent</u>, DYNA_697_0001091, at Claims 1, 2, 2:1-16, 3:49-4:67, 5:42-55, 6:28-7:12, 7:35-8:62, 9:4-10:17, and Figs. 1, 19, 25, 26, 32, 33, 35B and corresponding descriptions</p> <p><u>'697 Patent File History</u>, DYNA_697_0000001, at DYNA_697_0000069, DYNA_697_0000072, DYNA_697_0000286, DYNA_697_0000289, DYNA_697_0000308, DYNA_697_0000311,</p>

<u>Claim term</u>	<u>Claims</u>	<u>Counterclaim Defendants' Construction and</u>	<u>DynaEnergetics' Construction</u>
		Allowance Communication; March 26, 2020 Information Disclosure Statement; March 31, 2020 Notice of Allowance; April 22, 2020 Request for Continued Examination; April 22, 2020 Information Disclosure Statement; June 19, 2020 Office Action Appendices; June 19, 2020 Examiner Interview Summary Record; June 19, 2020 Notice of Allowance; June 26, 2020 Request for Continued Examination; June 26, 2020 Information Disclosure Statement; July 20, 2020 Information Disclosure Statement; August 5, 2020 Examiner Interview Summary Record; August 5, 2020 Notice of Allowance	DYNA_697_0000529, DYNA_697_0000532, DYNA_697_0000677, DYNA_697_0001000

Dated: July 8, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on the July 8, 2021, a copy of the foregoing was served on the following party electronically through the U.S. District Court, Southern District of Texas ECF system to all counsel of record all of whom are Filing Users of the Court's Electronic Filing System.

/s/ Amir Alavi
Amir Alavi